

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE: : CASE NO. 10-93904-BHL-11
EASTERN LIVESTOCK CO., LLC, : (Judge Basil H. Lorch III)
Debtor. :
: **MOTION OF THE FIRST BANK**
: **AND TRUST COMPANY FOR**
: **EXPEDITED HEARING ON**
: **MOTION TO REMOVE PUBLICLY**
: **FILED DOCUMENTS FROM**
: **STRICTURES OF ORDER**
: **GRANTING MOTION FOR ENTRY**
: **OF STIPULATED**
: **CONFIDENTIALITY AGREEMENT**
:

Creditor The First Bank and Trust Company ("First Bank") moves this Court for an expedited hearing on the Motion to Remove Publicly Filed Documents from Strictures of Order Granting Motion for Entry of Stipulated Confidentiality Agreement ("Motion to Remove Public Documents") [Dkt. No. 1165].

I. JURISDICTION

1. This Court has jurisdiction of this proceeding under 28 U.S.C. §1334(a) and 157(b), and this matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A) and (O). Venue is proper in this district pursuant to 18 U.S.C. §1409(a).

II. BACKGROUND

2. On May 16, 2012, First Bank filed a Complaint for Money Damages ("Complaint") in Hamilton County, Ohio, against Fifth Third Bank and Fifth Third Bancorp

(collectively "Fifth Third"). The Complaint reveals no trade secret of Fifth Third Bank and attaches no documents that Fifth Third had stamped "Confidential" in any proceeding.

3. On May 17, 2012, Fifth Third responded to the Complaint by filing an emergency motion to seal the Complaint ("Motion to Seal"). Fifth Third contends that the documents upon which First Bank's Complaint relies are confidential pursuant to the Stipulated Confidentiality Agreement [Dkt. No. 722]. On May 22, 2012, First Bank filed a Memorandum in Opposition and on May 24, 2012, Fifth Third filed its Reply.

4. In response to Fifth Third's misuse of the Stipulated Confidentiality Agreement, First Bank recently filed a request for an immediate evidentiary hearing on the matter, and the Ohio state court will soon address Fifth Third's Motion to Seal after an appropriate hearing under Ohio Rule of Superintendence 45, which governs the procedure for filing court materials "under seal."

5. As further discussed in First Bank's Motion to Remove Public Documents, Fifth Third's suggestion that all of its documents are confidential because of the "confidential" stamp lacks merit and rings hollow.

6. This Motion does not result in prejudice to any party and is essentially this Bankruptcy Court giving simple and non-controversial full faith and credit to the Order of a State Court judge on overlapping issues of interest. It is necessary for this Court to resolve this issue, and First Bank requests that this Court expedite the hearing on First Bank's Motion to Remove Public Documents to be conducted on Monday, June 11, 2012, which is the same day as the Omnibus hearing.

III. CONCLUSION

7. For the foregoing reasons, in addition to the fact that no party will suffer prejudice as a result of this Motion, First Bank requests an expedited hearing concerning First Bank's Motion to Remove Public Documents to be conducted on June 11, 2012.

Respectfully submitted,

/s/ Daniel J. Donnellon

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CERTIFICATE OF SERVICE

I certify that on the 6th day of June, 2012, I electronically filed the foregoing Motion of The First Bank and Trust Company For Expedited Hearing with the Clerk of Courts using the CM/ECF system, which will send notification of such filing to CM/ECF participants, and I hereby certify that I have mailed by United States Postal Service the document to the non-CM/ECF participants:

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